

FILED

3001013

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

GARDEN HOMES BY E. L., INC.

Plaintiff,

vs.

CHARLES WEIS, MAURA WEIS,
and
RYAN RANS, d/b/a RANS CUSTOM
HOMES,

Defendants.

Case No. 3:11-cv-11CV 115

COMPLAINT FOR COPYRIGHT VIOLATION AND JURY DEMAND

Comes now the plaintiff, Garden Homes by E. L., Inc., by counsel, and for its complaint against the defendants alleges and says:

1. The plaintiff is an Indiana corporation building homes in St. Joseph County and outlying areas.

2. To the best of the plaintiff's knowledge and belief, Charles Weis and Maura Weis are residents of the State of Florida. The defendants Rans Custom Homes and Ryan Rans are residents of the State of Indiana.

3. This is a complaint for copyright and trade dress violation under the copyright laws of the United States, 17 U.S.C. §§ 501, et seq.

4. In mid-2008, the plaintiff contract with the defendants Weis to build a series of homes on certain real estate owned by the Weises, for use by the Weises in their charitable organization, Hannah & Friends. Weises periodically met with the principal of the plaintiff to design and build a series of homes for extended living to accommodate disabled persons on the Hannah & Friends property.

5. Weises, individually, are the principals of Hannah & Friends and made all of the decisions in the course of the performance of the agreement.

6. Pursuant to the request of the Weises, the plaintiff designed a prototype home and built two (2) homes on the real estate, according to a design created by the plaintiff and approved by the Weises. Further, the plaintiff assisted the Weises in developing their 30-acre parcel of land in St. Joseph County, Indiana. The plaintiff drafted a site plan for the development which was to

accommodate sixteen (16) homes, all of which would mirror the original home design created by the plaintiff.

7. Plaintiff built the main lodge on the property as part of the overall contract. Plaintiff then designed and built two (2) homes on the site.

8. Plaintiff independently and with its own creativity designed the homes in question. The plans are original to the plaintiff and to the rest of the world.

9. During construction of the first home, plaintiff filed the plans with the U.S. Copyright Office. Plaintiff obtained registered copyright protection on May 13, 2008 under Registration No. VAU000964596. The plaintiff's plans are protected by its common law and registered copyright.

10. The defendants have intentionally violated the plaintiff's copyright by the construction of a third home, using plaintiff's copyrighted plans. Said home has been constructed by the defendant Rans who in turn used plaintiff's plans, at the special instance and direction of the Weises, to construct the home. Rans has profited from the use of said plans.

11. Weises and Rans cooperated and conspired to use the copyrighted plans, without plaintiff's consent, to construct a third home on the Hannah & Friends site. The plan was used for Rans' bid for the new construction, for the electrical and other contract bids, and for the overall exterior and interior design of the third home which was constructed by Weises and Rans in the months of May through July, 2010.

12. Weises personally had possession of the plaintiff's copyrighted plans, individually provided them to Rans, and directed Rans to construct the home, making some alterations to avoid the appearance of a copyright violation.

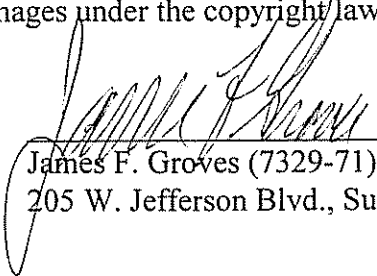
12. Rans and Weises contracted for construction of the home based on the plans which were clearly marked as copyrighted. The violation was intentional. The copyright was registered before the plans were copied and construction commenced.

13. The plaintiff is entitled to statutory damages and attorney's fees.

14. The plaintiff's design contains non-functional features which are protectible trade dress.

15. Defendants used said features on the design and construction of the third home.

WHEREFORE, plaintiff prays judgment against the defendants for an amount adequate to compensate the plaintiff, for additional damages under the copyright laws, and attorney's fees.

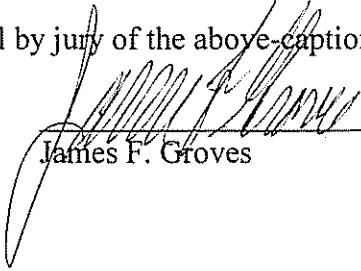


James F. Groves (7329-71)
205 W. Jefferson Blvd., Suite 502

South Bend IN 46601
(574) 232-5923
Attorney for Plaintiff

JURY DEMAND

Plaintiff, by counsel, demands trial by jury of the above-captioned cause.



James F. Groves